Sexual Harassment Training

Understanding and Preventing Sexual Harassment

Created by:
Mr. David McConnell
Morale, Welfare and Recreation
Kings Bay Georgia
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Objectives

- **Understanding without a doubt what is and what is not sexual harassment.**
- **Acceptable and unacceptable behavior in the workplace.**
- **Understanding the two main forms of sexual harassment.**
- **Understanding the Laws which pertain to sexual harassment.**

Disclaimer

- **The subject matter of this training is of a sensitive nature and is not meant to offend anyone. Language, training materials, including the use of training films are intended to show examples of what could be happening in our own work areas.**

What is Sexual Harassment?

- **The U.S. Equal Employment Opportunity Commission (EEOC) defines it as:**
  - Sexual in nature
  - Unwelcome

More Specific

- **Actions of a sexual nature that create a hostile, offensive, or intimidating working environment for the recipient.**
  - **Note: This includes activities which may be welcome to the direct recipient but result in a *hostile, offensive or intimidating atmosphere or interfere with the work or performance of other employees.***

Forms of Sexual Harassment

- **Two legally recognized types:**
  - Quid Pro Quo Harassment
  - Hostile Work Environment

Forms of Sexual Harassment

- **Quid Pro Quo Harassment:**
  - Easy to identify
  - Means “this for that”
  - Person with a position of power over another offers to trade an employment benefit for a sexual favor, or threatens to withhold the benefit if the favor is not given (promotions, desirable work assignments).

Forms of Sexual Harassment

- **Hostile Work Environment:**
  - Obvious or implied sexually-oriented activity in the work place, by supervisors or employees.
  - One incident of explicit touching of intimate body parts could constitute hostile environment harassment.

Examples of Hostile Work Environment

- **It must be <u>unwelcome</u> physical contact such as:**
  - Touching, grabbing, kissing, hugging, rubbing or massaging.

Examples of Hostile Work Environment

- **Verbal**
  - Jokes of a sexual nature, pressures for dates and sexual acts, propositions, obscene or foul language of a sexual nature, and sexual remarks or gestures.

Examples of Hostile Work Environment

- **Written or Other**
  - Pictures, cartoons, or posters of a sexual nature, tee shirts with pictures or sayings, calendars, desk items with sexual language or pictures. This category includes E-mail.

Early Warning Signs

- **Suggestive Comments.**
- **Frequent use of suggestive language.**
- **Expecting favors based on gender.**
- **Sexual innuendo and flirting.**
- **Language which targets or “puts down” a group based on gender.**
- **Space violations - standing too close to another person.**
- **Sexually-related profanity.**

Why Does Sexual Harassment Persist?

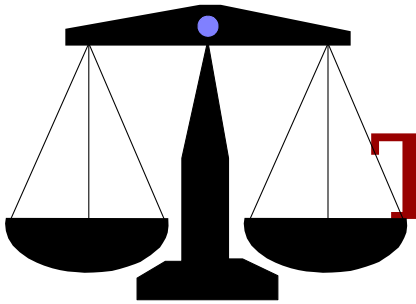
- **The way we view others**
  - The way people dress may draw unprofessional attention. Dress to draw professional attention.
  - Invited behavior cannot be unwelcome.

Employee Rights

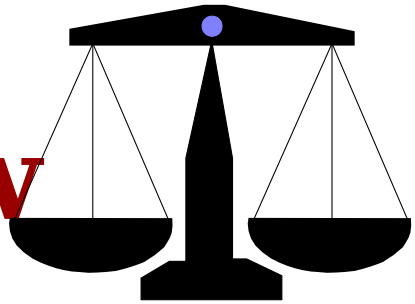
- **To bring an allegation to a member of management.**
- **To do so without reprisal.**
- **To have the allegation addressed immediately.**
- **To know in general the outcome of any inquiry.**
- **To file an EEO complaint.**
- **To file a complaint with the Office of Special Counsel.**

Employer or Supervisors Responsibilities

- To stay informed and trained in sexual harassment.
- To listen to employees when presented with issues.
- Take immediate action, up the Chain of Command within 3 days (CNO policy).
- If employer or supervisor knew or should have acted and didn’t, employer or supervisor is held liable.



The Law



- **The law is concerned with serious misconduct.**

- **The “Reasonable Person” Standard.**
  - **Adopted in 1993 by the U.S. Supreme Court**
  - **Behavior must be viewed from the perspective of a typical, reasonable man and woman.**

Preventing Allegations

- **One way to prevent allegations of sexual harassment is to understand everyone has personal thoughts and feelings, their "comfort zone" should not be interrupted.**

How Much is Too Much?

- **One incident may be one too many!**
  - **The Merit Systems Protection Board (MSPB) recently upheld the removal of an employee for a SINGLE instance of offensive physical contact with a female co-worker.**
  - **The MSPB explained that "even a single instance of indecent and disgraceful conduct toward a co-worker can support the penalty of a removal; there need not be a pattern of behavior before removal is reasonable."**

Costs of Sexual Harassment

- Causes emotional distress
- Lowers productivity
- Lowers morale
- Increases turnover rates
- Increases absenteeism
- Inhibits growth and creativity

Sexual Harassment Charges

EEOC Cases FY92 - FY99

	FY 1992	FY 1993	FY 1994	FY 1995	FY 1996	FY 1997	FY 1998	FY 1999
CASES	10,532	11,908	14,420	15,549	15,342	15,889	15,618	15,222
SETTLEMENTS	1,029	1,132	1,075	978	1,082	1,178	1,218	1,361
%MALES	9.10%	9.10%	9.90%	9.90%	10.00%	11.60%	12.90%	12.10%
PAID (Mil)*	$ 12.7	$ 25.1	$ 22.5	$ 24.3	$ 27.8	$ 49.5	$ 34.3	$50.3
* Does not include monetary benefits obtained through litigation.								

Behaving Badly

- **Lessons were learned the hard way at the Veterans Affairs Department.**
  - **Ventris Gibson, head of VA's Office of Resolution Management states: "Employees should not be touching each other, that's the bottom line. That type of behavior is unacceptable in the workplace."**
    - **Source: July 99 issue of Government Executive.**

Recent Major Case

- **LAWSUITS : FORD Motor Co and THE HIGH COST OF HARASSMENT -** by *Joann Muller in Detroit;* 11-15-1999
  - In early September, Ford Motor Co. reached a $17.5 million deal with the feds to settle ugly ***sexual*** **harassment** allegations at two Chicago-area factories. Civil rights leaders hailed the accord as a model for Corporate America. The carmaker agreed to set aside $7.5 million to compensate victims of **harassment** and $10 million more to train managers and male workers to stop what women alleged to be a years-long pattern of groping, name-calling, and parties with strippers and prostitutes. Ford also agreed to triple the number of female supervisors in the plants, where women comprise just 14% of the workforce. And Ford will withhold raises and promotions from managers at any Ford plant who fail to stop **harassment** from occurring.

Major Cases

- **LIQUOR IMPORTER TO PAY $2.6 MILLION IN SETTLEMENT OF SEX HARASSMENT LAWSUIT - June 3, 1999**
  - ***Largest EEOC Monetary Settlement for Sexual Harassment in New York State.***
  - **In a consent decree obtained by the U.S. Equal Employment Opportunity Commission's (EEOC) New York District Office, Sidney Frank Importing Co. Inc. and All State Promotions Inc. ("Sidney Frank Importers"), distributors of Jagermeister and Grey Goose Vodka, agreed to pay $2,600,000 to conclude a lawsuit which alleged that more than 100 female employees were subjected to acts of sexual harassment by President and owner Sidney Frank as well as by other management employees and customers.**

More Cases

- Joseph Oncale vs. Sundowner Offshore Services
  Supreme Court Of The United States

- In late October 1991, Oncale was working for Sundowner Offshore Services on a Chevron U.S. A., Inc., oil platform in the Gulf of Mexico. He was employed as a roustabout on an eight-man crew which included respondents John Lyons, Danny Pippen, and Brandon Johnson. Lyons, the crane operator, and Pippen, the driller, had supervisory authority. On several occasions, Oncale was forcibly subjected to sex-related, humiliating actions against him by Lyons, Pippen and Johnson in the presence of the rest of the crew. Pippen and Lyons also physically assaulted Oncale in a sexual manner, and Lyons threatened him with rape.
- Oncale's complaints to supervisory personnel produced no remedial action; in fact, the company's Safety Compliance Clerk, Valent Hohen, told Oncale that Lyons and Pippen "picked [on] him all the time too," and called him a name suggesting homosexuality. Oncale eventually quit-asking that his pink slip reflect that he "voluntarily left due to sexual harassment and verbal abuse."
- Oncale filed a complaint against Sundowner in the United States District Court for the Eastern District of Louisiana, alleging that he was discriminated against in his employment because of his sex. The Court decided for Oncale.

More Cases

- **Beth Ann Faragher, Petitioner V. City Of Boca Raton**
  Supreme Court Of The United States
- Between 1985 and 1990 Beth Ann Faragher worked part time and during the summers as an ocean lifeguard for the Marine Safety Section of the Parks and Recreation Department of the City of Boca Raton, Florida. During this period, Faragher's immediate supervisors created a "sexually hostile atmosphere" at the beach by repeatedly subjecting Faragher and other female lifeguards to "uninvited and offensive touching," by making lewd remarks, and by speaking of women in offensive terms. The complaint contained specific allegations that Terry once said that he would never promote a woman to the rank of lieutenant, and that Silverman had said to Faragher, "Date me or clean the toilets for a year." Asserting that Terry and Silverman were agents of the City, and that their conduct amounted to discrimination in the "terms, conditions, and privileges" of her employment, Faragher sought a judgment against the City for nominal damages, costs, and attorney's fees. The Court decided in favor of Faragher.

Question

- True or False
  - Hostile environment sexual harassment is clearly defined in the courts and has set boundaries.

Answer

- **False**
  - Hostile environment sexual harassment is more difficult to define and identify than “Quid Pro Quo.” The courts have established guidelines but there are no clearly set boundaries.

Question

- True or False
  - Sexual harassment can occur by a non-employee, and the company be liable if the company knew, or should have known, of the offensive conduct towards the employee and did not take action.

Answer

- **True**
  - The company is liable for the non-employees actions if they knew, or should have known about it.

Question

- True or False
  - A computer graphic image displayed in the workplace can be considered sexual harassment.

Answer

- **True**
  - Pictures and cartoons of a sexual nature can be considered sexual harassment.

Question

- True or False
  - The courts consider the person's intentions more than the victim's perception.

Answer

- **False**
  - The victim’s perception is key in court rulings on sexual harassment.

Question

- True or False
  - Nonverbal actions such as long stares cannot be considered sexual harassment.

Answer

- **False**
  - Nonverbal actions can be considered sexual harassment.

Question

- True or False
  - Frequent touching on a person’s hand, shoulders or arm could be considered sexual harassment.

Answer

- **True**
  - If physical contact of any kind is “unwelcome,” it can be considered sexual harassment.

Question

- True or False
  - A claim of hostile environment usually requires documentation of several offensive acts or a pattern of offensive conduct.

Answer

- **True**

Question

- True or False
  - Employees must have a witness in order to claim sexual harassment.

Answer

- **False**
  - Though witnesses are helpful, no witness is required in order to file a claim of sexual harassment.

Question

- True or False
  - Sexual misconduct that is not defined in the DOD policy is not considered sexual harassment.

Answer

- **False**
  - There are many forms of sexual misconduct. They do not need to be defined in the DOD policy in order to be considered sexual harassment.

Question

- True or False
  - Sexual harassment is usually a power issue more than a sexuality issue.

Answer

- **True**

Research Sources

- **www.access.gpo.gov – Code of Federal Regulations, U.S. Code, Supreme Court Decisions.**
- **www.eeoc.gov – The U.S. Equal Employment Opportunity Commission (EEOC) home page.**
- **www.mspb.gov – Merit Systems Protection Board decisions.**
- **www.opm.gov – New developments in labor and employee relations, significant cases.**

- This concludes your Sexual Harassment Training. Thank you.

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Thomas H. Sheppard
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